

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KEVIN CAMPBELL,

Petitioner,

v.

UNITED STATES OF AMERICA,

Respondent.

CASE NO. C18-0274-JCC

ORDER

This matter comes before the Court on Petitioner Kevin Campbell's second motion to vacate, set aside, or correct his sentence pursuant to 28 U.S.C. § 2255 (Dkt. No. 1). For the reasons set forth herein, the Court **DISMISSES** the motion with prejudice.

A prisoner normally has only one opportunity to file a habeas petition. *See United States v. Lopez*, 577 F.3d 1053, 1055 (9th Cir. 2009). The only exception is when the Court of Appeals certifies that a second or successive motion contains:

(1) newly discovered evidence that, if proven and viewed in light of the evidence as a whole, would be sufficient to establish by clear and convincing evidence that no reasonable factfinder would have found the movant guilty of the offense; or

(2) a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme Court, that was previously unavailable.

28 U.S.C. § 2255(h). Before a petitioner can file a second or successive habeas petition in the district court, the petitioner must move in the Court of Appeals for certification. 28 U.S.C.

1 § 2244(b)(3)(A). This requirement is jurisdictional; without certification, the district court lacks
2 the authority to hear a second petition. *Lopez*, 577 F.3d at 1061.

3 Petitioner has already filed a habeas petition, which this Court denied. *See United States*
4 *v. Campbell*, C17-0025-JCC, Dkt. Nos. 51, 60 (W.D. Wash. 2017) (the Court treated Petitioner's
5 motion to withdraw his guilty plea after he was sentenced and judgment was issued as a petition
6 brought pursuant to 18 U.S.C. § 2255). Petitioner has made no showing that he moved for
7 certification under § 2244 for the current petition or that he obtained such certification. Nor does
8 the Court expect such certification could be issued, as Petitioner raises the same argument in the
9 current successive petition as in his previous petition. Accordingly, this Court lacks the authority
10 to consider the present petition.

11 Petitioner's § 2255 petition (Dkt. No. 1) is DISMISSED with prejudice. The Clerk is
12 directed to CLOSE this case and send a copy of this order to Petitioner.

13 DATED this 22nd day of March 2018.

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A handwritten signature in black ink, reading "John C. Coughenour", is written over a horizontal line.

John C. Coughenour
UNITED STATES DISTRICT JUDGE